

Remarks

Claims 1-63 are pending in the present application and are subject to restriction based on the following groups:

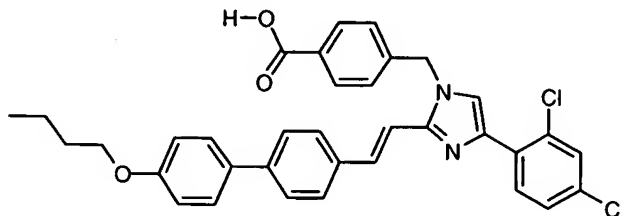
- Group I - Claims 1-19, 21, 22 and 24-46, drawn to products of Formula (I) wherein W is O, classified in class 548, subclass 215+;
- Group II - Claims 1, 3-19, 21, 22 and 24-46, drawn to products of Formula (I) wherein W is S, classified in class 548, subclass 146+;
- Group III - Claims 1-46, drawn to products of Formula (I) wherein W is $N(R_2)$, classified in class 548, subclass 311.1+;
- Group IV - Claims 47-63, drawn to methods of using products of Formula (I) wherein W is O, classified in class 514, subclass 374+;
- Group V - Claims 47-63, drawn to methods of using products of Formula (I) wherein W is S, classified in class 514, subclass 365+;
- Group VI - Claims 47-63, drawn to methods of using products of Formula (I) wherein W is $N(R_2)$, classified in class 514, subclass 385+.

Further, Applicants are required to elect a single disclosed species within the group elected and provide a listing of all claims readable thereon.

Election

Applicants elect, with traverse, the subject matter of Group III (claims 1-46) drawn to compounds and compositions of Formula (I) where W is $N(R_2)$.

Applicants further elect with traverse the species of Example 319 shown below for further prosecution on the merits.



4-[2-[2-(4'-butoxy-biphenyl-4-yl)-(E)-vinyl]-4-(2,4-dichloro-phenyl)-imidazol-1-ylmethyl]-benzoic acid

Claim 1 and other claims in Group III read on the species of Example 319.

Applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement. Under 35 U.S.C. § 121, restriction may be required if two or more independent and distinct inventions are claimed in one application. Under M.P.E.P. §803, the Examiner must examine the application on the merits if examination can be made without serious burden, even if the application would include claims to distinct or independent inventions. That is, there are two criteria for a proper requirement for restriction: (1) the invention must be independent and distinct, and (2) there must be a serious burden on the Examiner if restriction were not required.

Applicants respectfully submit that there would not be a serious burden on the Examiner if restriction were not required, because a search of the prior art relevant to the claims of Group III would provide the relevant prior art for Groups I, II, IV, V, and VI. Since there is no serious burden on the Examiner to examine Groups I through VI together in the same application, the Examiner should examine the entire application on the merits.

In view of the foregoing comments, Applicants maintain that restriction is not proper under § 121, and respectfully request that the Examiner reconsider and withdraw the requirement for restriction.

Applicants note that the Examiner has indicated rejoinder of process claims that depend from or otherwise include all the limitations of the patentable products as a matter of right.

Amendments

A description of the amendments to each claim follows. No new matter has been added in any amendment.

Applicants have amended claims 1-23 to explicitly state that each claim covers compounds of Formula (I) and pharmaceutically acceptable salts thereof. Support for these amendments can be found in the specification on page 18, lines 1-2. Claim 1 has been further amended to state that solvates and prodrugs are also included within the scope of claim 1. Support for this amendment can be found in original claim 24 and in the specification on page 18, lines 1-2. Claim 1 has also been amended by replacing a period in the claim with appropriate punctuation.

In claims 9 and 10, the conjunction "or" is replaced with "and".

In claim 12, the conjunction "or" has been inserted.

In claim 18, a period in the claim has been replaced with the appropriate punctuation, and the conjunction "and" has been inserted.

Claim 24 has been amended to recite a pharmaceutical composition. Support for this amended claim can be found in the specification on page 110, lines 5-7.

Claim 25 has been amended to recite that the pharmaceutical composition is a topical formulation. Support for this amended claim can be found in the specification on page 321, lines 25-28.

In claim 31, the typographical error of an extra period at the end of the claim has been corrected.

In claim 48, the noun "administration" has been replaced with the verb "administering".

In claim 50, the extra period at the end of the claim has been deleted.

Claims 48 and 50-63 have also been amended by substituting the phrase "a compound as claimed in claim 1" for the phrase "a compound of Formula (I) as defined in claim 1", and thereby clarifying that a compound of Formula (I), pharmaceutically acceptable salts, solvates, and prodrugs thereof are included within the scope of this limitation in the claims.

Fees

This response is being filed within one month of the Office Action mailed September 29, 2006, which set a shortened statutory period of one month for a reply.

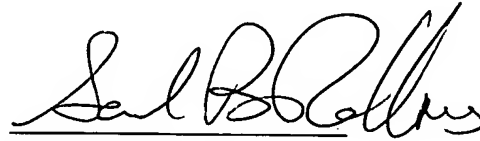
No fee is believed due, however, should a fee be deemed to be necessary, the Commissioner is hereby authorized to charge any fees required by this action or any future action to Deposit Account No. 50-3216.

Conclusion

In conclusion, Applicants request consideration of the Remarks and passage of the application to issuance.

Respectfully submitted,

Date: Oct. 27, 2006



Samuel B. Rollins
Registration No. 52,180

TransTech Pharma, Inc.
4170 Mendenhall Oaks Pkwy, Suite 110
High Point, NC 27265
Phone: (336) 841-0300 ext. 159
Fax: (336) 841-0310